

THE STATE OF NEW HAMPSHIRE  
SUPERIOR COURT  
ROCKINGHAM COUNTY

I, Jennifer M. Haggar, Clerk of the Superior Court of the State of New Hampshire for the County of Rockingham, the same being a court of record having a seal, and having custody of the records of the said Superior Court, do hereby certify that the attached are true copies of Complaint, Summons on Complaint, Return of Service, Answer and Notice of Removal to Federal Dist. Ct. in the action 218-2021-CV-00003 Gail P Garda v. Kohl's Inc. of said Superior Court.

In witness whereof I have hereunto set my hand  
and affixed the seal of said Superior Court at  
this 22 day of March A.D. 2021



A handwritten signature in black ink, appearing to read "J. Haggar".

Clerk of Superior Court

True Copy Attest

Jennifer M. Hagggar, Clerk of Court

March 22, 2021

**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH**<http://www.courts.state.nh.us>Court Name: **Rockingham Superior Court**Case Name: **Gail P. Garda vs. Kohl's Inc. 325 Lafayette Rd. Seabrook, NH**Case Number: **218-2021-CV-00003**

(if known)

**COMPLAINT**Requested: ☒ Jury Trial (as allowed by law) ☐ Bench Trial1. Plaintiff's Name **Gail P. Garda**Residence Address **34 Old Stage Road, Hampton Falls, NH 03844**

Mailing Address (if different)

Telephone Number (Home) **(603) 926-0457** (Mobile) **(603) 303-6038**2. Defendant's Name **Kohl's Inc.**Residence Address **325 Lafayette Rd., Seabrook, NH 03874**Mailing Address (if different) **3 Executive Park Drive 9, Bedford, NH 03110 (by Registered Agent)**

3. First thing that happened (in one sentence):

**On or about January 3, 2018, your Plaintiff enjoyed the legal status of business invitee in, on, or about the premises owned, operated and managed by your Defendant, its agents and employees and at said time and place your Plaintiff was caused to lose her footing, falling to the ground with great force causing serious and permanent personal and other economic and otherwise compensable injuries.**

4. Second thing that happened (in one sentence):

**Upon falling and sustaining serious and permanent personal and other economic and otherwise compensable injuries, the agents and/or employees of your Defendant were not properly trained and/or supervised and therefore did not attend to your Plaintiff and her injuries in a prompt and proper manner, nor did they appreciate your Plaintiff as a business invitee and their duty to such by failing to continuously inspect and remedy any and all hazardous conditions existing in, on, or about the said premises.**

5. Third thing that happened (in one sentence):

**The Plaintiff, through no fault of her own, was caused to suffer serious and permanent personal and other economic and otherwise compensable injuries when the Defendant, its agents and employees failed to provide her and other business invitees with a safe environment that was to the direct pecuniary benefit of your said Defendant(s), therefore, the breach of various legal duty(s) caused by the Defendant, its agents and employees are the direct and proximate cause of the serious, permanent personal and other economic and otherwise compensable injuries sustained by your Plaintiff.**

Continue on using separately numbered paragraphs (attach additional sheets if necessary).

Case Number: \_\_\_\_\_

**COMPLAINT**

For the reasons stated in this Complaint, I request that the Court issue the following orders:

A. Describe the orders you want the Court to make:

**Wherefore, the Plaintiff respectfully requests the Honorable Court find that as a direct and proximate cause of the Defendants' negligence and the negligence of its agents and employees, she was caused to suffer serious and permanent personal and other economic and otherwise compensable injuries and is therefore entitled to compensatory and all other applicable damages at law; and for any other relief this Honorable Court deems necessary, proper, and just.**

B. All other relief the Court deems fair and just.

**Gail Garda by and through**

Name of Filer

**Shawn R. Crapo, Esquire**

**272502**

Law Firm, if applicable

Bar ID # of attorney

**Crapo Law Offices, PLLC**

Address

**Rye Beach**

**NH**

**03871**

City

State

Zip code

**/s/ Shawn R. Crapo**

Signature of Filer

Date

**(603) 964-0003**

Telephone

**Shawn@CrapoLaw.com**

E-mail



Jennifer M. Hagggar, Clerk of Court

March 22, 2021

Rockingham Superior Court  
Rockingham Cty Courthouse/PO Box 1258  
Kingston NH 03848-1258

**THE STATE OF NEW HAMPSHIRE**  
**JUDICIAL BRANCH**  
**SUPERIOR COURT**



Telephone: 1-855-212-1234  
TTY/TDD Relay: (800) 735-2964  
<http://www.courts.state.nh.us>

**SUMMONS IN A CIVIL ACTION**



Case Name: **Gail P Garda v Kohl's Inc.**  
Case Number: **218-2021-CV-00003**

Date Complaint Filed: January 01, 2021

A Complaint has been filed against Kohl's Inc. in this Court. A copy of the Complaint is attached.

**The Court ORDERS that ON OR BEFORE:**

February 20, 2021	Gail P Garda shall have this Summons and the attached Complaint served upon Kohl's Inc. by in hand or by leaving a copy at his/her abode, or by such other service as is allowed by law.
March 13, 2021	Gail P Garda shall electronically file the return(s) of service with this Court. Failure to do so may result in this action being dismissed without further notice.
30 days after Defendant is served	Kohl's Inc. must electronically file an Appearance and Answer or other responsive pleading form with this Court. A copy of the Appearance and Answer or other responsive pleading must be sent electronically to the party/parties listed below.

**Notice to Kohl's Inc.:** If you do not comply with these requirements you will be considered in default and the Court may issue orders that affect you without your input.

Send copies to:

Shawn R Crapo, ESQ

Kohl's Inc.

Crapo Law Offices PLLC d/b/a The Law Offices of Shawn R  
Crapo PO Box 491 Rye Beach NH 03871  
325 Lafayette Rd Seabrook NH 03874

BY ORDER OF THE COURT

January 06, 2021

Jennifer M. Hagggar  
Clerk of Court

(126987)

**THE STATE OF NEW HAMPSHIRE  
JUDICIAL BRANCH  
SUPERIOR COURT**

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**GAIL P GARDA  
INSTRUCTIONS FOR SERVICE  
BY THE SHERIFF'S DEPARTMENT**

Case Name: **Gail P Garda v Kohl's Inc.**  
Case Number: **218-2021-CV-00003**

**Instructions for: Gail P Garda**

The attached Summons must be sent to the Sheriff's Department for service. Service must be completed on or before **February 20, 2021**.

**Further action is required by you**

**You must:**

- **Print two copies of the Summons per defendant**
- **Print two copies of the Notice to Defendant per defendant**
- **Print two copies of the Complaint filed with the Court per defendant**
- **Make two packets for service. Each packet should contain:**
  - **One Summons**
  - **Once Notice for Defendant**
  - **One Complaint filed with the Court**
- **Mail or hand deliver the packets to the Sheriff's Department in the county where each defendant resides.**

**Sheriff Departments in New Hampshire:**

[Belknap County Sheriff's Department:](#)

[Carroll County Sheriff's Department:](#)

[Cheshire County Sheriff's Department:](#)

[Coos County Sheriff's Department:](#)

[Grafton County Sheriff's Department:](#)

[Hillsborough County Sheriff's Department:](#)

[Merrimack County Sheriff's Department:](#)

[Rockingham County Sheriff's Department:](#)

[Strafford County Sheriff's Department:](#)

[Sullivan County Sheriff's Department:](#)

**\*If one or more of the parties resides out of state, please click [here](#) for the requirements\***

Service must be made upon the defendant before **February 20, 2021**.

If the Sheriff is unable to complete service by **February 20, 2021** you will receive a "Notice of Incomplete Service" from the Sheriff's Department. You may request that new paperwork be issued by electronically filing a Request for Documents. There is a fee for this request.

The Sheriff will mail the 'Return of Service' to you. You **MUST** electronically file the 'Return of Service' with the court by March 13, 2021.

**If service is not made as directed, no further action will occur and the case may be dismissed by the court.**

## Important Service Information for Sheriff

Do not file this with the court

Provide this information to the Sheriff's Department.

See Instructions for Service for more information.

**PLEASE PRINT CLEARLY**

Date: \_\_\_\_\_

Case #: \_\_\_\_\_

**Who are you requesting to be served?**

Please provide whatever information you know

Name: \_\_\_\_\_

Address for service (no P.O. boxes):

\_\_\_\_\_ APT #: \_\_\_\_\_

\_\_\_\_\_

Home phone #: \_\_\_\_\_ Cell phone #: \_\_\_\_\_

Sex: ☐ Male ☐ Female Race: \_\_\_\_\_

Last 4 digits of SS#: xxx-xx- \_\_\_\_\_ D.O.B. \_\_\_\_\_

Work name & address:

\_\_\_\_\_

Special instructions for service (i.e. directions, best time to serve, cautions, etc.):

\_\_\_\_\_

\_\_\_\_\_

Vehicle description/license plate:

\_\_\_\_\_

**Your Information:**

Name (please print): \_\_\_\_\_

Residential address:

\_\_\_\_\_

\_\_\_\_\_

Mailing address:

\_\_\_\_\_

\_\_\_\_\_

Phone number to contact you during business hours:

\_\_\_\_\_ Alternate #: \_\_\_\_\_

\_\_\_\_\_  
Signature

◆IN-HAND SERVICE WILL INCUR EXTRA COSTS DUE TO ADDITIONAL TRAVEL◆

**SHERIFF OFFICE USE ONLY: (This will vary by Sheriff's Office)**

Fees Paid: \$ _____	Cash #: _____	Check#: _____
Id#: _____	Waiver: _____	Money Order#: _____
Sheriff File # _____	Authorization #: _____	Credit Card: _____

Instructions for filing the Return of Service:

If you are working with an attorney, they will guide you on the next steps. If you are going to represent yourself in this action, go to the court's website: [www.courts.state.nh.us](http://www.courts.state.nh.us), select the Electronic Services icon and then select the option for a self-represented party.

1. Select "I am filing into an existing case". Enter 218-2021-CV-00003 and click Next.
2. When you find the case, click on the link follow the instructions on the screen. On the "What would you like to file?" screen, select "File Other Document" and choose "Return of Service".
3. Scan the Return of Service packet and follow the instructions in the electronic filing program to upload the Return of Service to complete your filing.
4. If the sheriff was unable to serve the paperwork, you can request new paperwork by filing a Request for Documents. On the "What would you like to file?" screen, select "File Other Document" and choose "Request for Reissued Summons" from the menu and upload the Request for Documents form.

**FAILURE TO FILE THESE DOCUMENTS MAY RESULT IN YOUR CASE BEING DISMISSED.**

January 06, 2021  
Date

Jennifer M. Haggart  
Clerk of Court

You can access documents electronically filed through our Case Access Portal by going to <https://odypa.nhecourt.us/portal> and following the instructions in the User Guide. In that process you will register, validate your email, request access and approval to view your case. After your information is validated by the court, you will be able to view case information and documents filed in your case.

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**NOTICE TO DEFENDANT**

Case Name: **Gail P Garda v Kohl's Inc.**  
Case Number: **218-2021-CV-00003**

You have been served with a Complaint which serves as notice that this legal action has been filed against you in the **Rockingham Superior Court**. Review the Complaint to see the basis for the Plaintiff's claim.

Each Defendant is required to electronically file an Appearance and Answer 30 days after service. You may register and respond on any private or public computer. For your convenience, there is also a computer available in the courthouse lobby.

If you are working with an attorney, they will guide you on the next steps. If you are going to represent yourself in this action, go to the court's website: [www.courts.state.nh.us](http://www.courts.state.nh.us), select the Electronic Services icon and then select the option for a self-represented party.

1. Complete the registration/log in process. Click Register and follow the prompts.
2. After you register, click Start Now. Select **Rockingham Superior Court** as the location.
3. Select "I am filing into an existing case". Enter **218-2021-CV-00003** and click Next.
4. When you find the case, click on the link and follow the instructions on the screen. On the "What would you like to file?" screen, select "File a Response to Civil Complaint". Follow the instructions to complete your filing.
5. Review your Response before submitting it to the court.

**IMPORTANT:** After receiving your response and other filings the court will send notifications and court orders electronically to the email address you provide.

A person who is filing or defending against a Civil Complaint will want to be familiar with the Rules of the Superior Court, which are available on the court's website: [www.courts.state.nh.us](http://www.courts.state.nh.us).

Once you have registered and responded to the summons, you can access documents electronically filed by going to <https://odypa.nhecourt.us/portal> and following the instructions in the User Guide. In that process you will register, validate your email, request access and approval to view your case. After your information is validated by the court, you will be able to view case information and documents filed in your case.

If you have questions regarding this process, please contact the court at 1-855-212-1234.



Jennifer M. Haggar, Clerk of Court

March 22, 2021



## THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, ss.

SUPERIOR COURT

Docket No. 218-2021-cv-00003

GAIL P. GARDA,

Plaintiff,

v.

KOHL'S INC.,

Defendant.

**ANSWER, AFFIRMATIVE DEFENSES AND JURY DEMAND**

Kohl's Inc., ("Kohl's" or "Defendant") respectfully submits the following Answer, Affirmative Defenses, and Jury Demand, stating in support as follows:

**I. ANSWER**

1. Without knowledge. The phrase "without knowledge" means that Defendant (1) lacks sufficient knowledge to form a belief as to the truth or accuracy of the allegation, (2) therefore, denies such claim, and (3) leaves Plaintiff to her proof.

2. Kohl's admits that it has a location a 325 Lafayette Road, Seabrook, NH and that its registered agent is Corporate Creations Network, Inc., with an office at 3 Executive Park Drive 9, Bedford, NH 03110.

3. Without knowledge.

4. Denied.

5. Denied.

A. Denied.

WHEREFORE, Kohl's denies that Plaintiff is entitled to judgment in any amount.

## **II. AFFIRMATIVE DEFENSES**

### **FIRST DEFENSE**

Plaintiff's Complaint fails to state a claim upon which relief can be granted against Defendant.

### **SECOND DEFENSE**

Defendant denies all allegations of liability contained in Plaintiff's Complaint.

### **THIRD DEFENSE**

Defendant's conduct was not a legal and/or proximate cause of Plaintiff's alleged damages, if any.

### **FOURTH DEFENSE**

Plaintiff's alleged damages were caused, in whole or in part, by the acts or omissions of persons or entities for whom Defendant is not legally responsible; Defendant reserves the right to seek an apportionment of liability in accordance with N.H. RSA 507:7-e and DeBenedetto v. CLD Consulting Engineers, Inc., 153 N.H. 793 (2006).

### **FIFTH DEFENSE**

Plaintiff's claims are barred, in whole or in part, by her own comparative negligence, pursuant to N.H. RSA 507:7-d.

### **SIXTH DEFENSE**

Plaintiff has failed to mitigate her damages.

### **SEVENTH DEFENSE**

Plaintiff's alleged injuries were proximately caused by the superseding and/or intervening conduct or negligent acts of third persons over whom Defendant has no control.

### **EIGHTH DEFENSE**

Plaintiff's claims are barred by one or more statutes of limitation.

NINTH DEFENSE

Defendant is responsible only for reasonable medical expenses actually incurred, if any at all, and is not responsible for any amounts forgiven or written off by the provider.

TENTH DEFENSE

Defendant challenges any and all medical expenses in accordance with New Hampshire Superior Court Rules.

ELEVENTH DEFENSE

Defendant reserves the right to add additional affirmative defenses as are reasonable and necessary as discovery progresses.

**III. JURY DEMAND**

Defendant demands a trial by jury as to all issues properly triable by jury and, pursuant to Superior Court Rule, objects to a trial with fewer than 12 jurors.

Respectfully submitted,  
Kohl's Inc.  
MORRISON MAHONEY LLP

Dated: March 10, 2021

By: /s/ Linda M. Smith

Linda M. Smith, #265038  
lsmith@morrisonmahoney.com  
1001 Elm Street, Suite 304  
Manchester, NH 03101  
Phone: 603-622-3400  
Fax: 603-622-3466

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was this day forwarded to:

Shawn R. Crapo, #272502  
Carpio Law Offices, PLLC  
P. O. Box 491  
Rye Beach, NH 03871

/s/ Linda M. Smith

Linda M. Smith

Jennifer M. Haggar, Clerk of Court

March 22, 2021



## THE STATE OF NEW HAMPSHIRE

ROCKINGHAM, ss.

SUPERIOR COURT

Docket No. 218-2021-cv-00003

GAIL P. GARDA,

Plaintiff,

v.

KOHL'S INC.,

Defendant.

**NOTICE TO REMOVE FROM STATE COURT**

Defendant, Kohl's Inc., hereby gives notice that it has removed this matter to the United States District Court, a copy of the notice of removal is included herewith.

Please prepare a certified copy of the Court's docket and provide it to defendant's counsel with an invoice.

Respectfully submitted,  
Kohl's Inc.  
MORRISON MAHONEY LLP

Dated: March 10, 2021

*/s/ Linda M. Smith*

By: \_\_\_\_\_

Linda M. Smith, #265038  
lsmith@morrisonmahoney.com  
1001 Elm Street, Suite 304  
Manchester, NH 03101  
Phone: 603-622-3400  
Fax: 603-622-3466

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Carp Law Offices, PLLC  
P. O. Box 491  
Rye Beach, NH 03871

*/s/ Linda M. Smith*

Linda M. Smith

HILLSBOROUGH COUNTY SHERIFF'S OFFICE  
329 MAST ROAD  
GOFFSTOWN, NH 03045

RETURN OF SERVICE

218-2021-CV-00003

SHERIFF WRIT 21-751-CP  
ROCKINGHAM COUNTY SC

GAIL GARDA V. KOHL'S INC.

02/10/2021

I SUMMONED THE WITHIN NAMED KOHL'S INC.  
BY GIVING IN HAND TO CYNTHIA COLBURN, REGISTERED AGENT FOR THE WITHIN  
NAMED, BEING AT 3 EXECUTIVE PARK DR #201A BEDFORD, NH, AN ATTESTED COPY OF  
THIS SUMMONS AT 02:30pm.

  
DEPUTY SHERIFF DONALD L CLAY

True Copy Attest



Jennifer M. Haggar, Clerk of Court

March 22, 2021



**THE STATE OF NEW HAMPSHIRE  
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**SUMMONS IN A CIVIL ACTION**



Case Name: **Gail P Garda v Kohl's Inc.**  
Case Number: **218-2021-CV-00003**

Date Complaint Filed: January 01, 2021

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Shawn R Crapo, ESQ

Kohl's Inc.

Crapo Law Offices PLLC d/b/a The Law Offices of Shawn R  
Crapo PO Box 491 Rye Beach NH 03871  
325 Lafayette Rd Seabrook NH 03874

BY ORDER OF THE COURT

January 06, 2021

(126987)

Jennifer M. Haggar  
Clerk of Court



**THE STATE OF NEW HAMPSHIRE  
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**THE STATE OF NEW HAMPSHIRE**  
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Court Name: Rockingham Superior Court  
Case Name: Gail P. Garda vs. Kohl's Inc. 325 Lafayette Rd. Seabrook, NH  
Case Number: 218-2021-CV-00003  
(if known)

**COMPLAINT**

Requested: ☒ Jury Trial (as allowed by law) ☐ Bench Trial

1. Plaintiff's Name Gail P. Garda  
Residence Address 34 Old Stage Road, Hampton Falls, NH 03844  
Mailing Address (if different) \_\_\_\_\_  
Telephone Number (Home) (603) 926-0457 (Mobile) (603) 303-6038

2. Defendant's Name Kohl's Inc.  
Residence Address 325 Lafayette Rd., Seabrook, NH 03874  
Mailing Address (if different) 3 Executive Park Drive 9, Bedford, NH 03110 (by Registered Agent)

3. First thing that happened (in one sentence):

**On or about January 3, 2018, your Plaintiff enjoyed the legal status of business invitee in, on, or about the premises owned, operated and managed by your Defendant, its agents and employees and at said time and place your Plaintiff was caused to lose her footing, falling to the ground with great force causing serious and permanent personal and other economic and otherwise compensable injuries.**

4. Second thing that happened (in one sentence):

**Upon falling and sustaining serious and permanent personal and other economic and otherwise compensable injuries, the agents and/or employees of your Defendant were not properly trained and/or supervised and therefore did not attend to your Plaintiff and her injuries in a prompt and proper manner, nor did they appreciate your Plaintiff as a business invitee and their duty to such by failing to continuously inspect and remedy any and all hazardous conditions existing in, on, or about the said premises.**

5. Third thing that happened (in one sentence):

**The Plaintiff, through no fault of her own, was caused to suffer serious and permanent personal and other economic and otherwise compensable injuries when the Defendant, its agents and employees failed to provide her and other business invitees with a safe environment that was to the direct pecuniary benefit of your said Defendant(s), therefore, the breach of various legal duty(s) caused by the Defendant, its agents and employees are the direct and proximate cause of the serious, permanent personal and other economic and otherwise compensable injuries sustained by your Plaintiff.**

Continue on using separately numbered paragraphs (attach additional sheets if necessary).



Case Name: **Gail P. Garda vs. Kohl's Inc. 325 Lafayette Rd. Seabrook, NH**

Case Number: \_\_\_\_\_

**COMPLAINT**

For the reasons stated in this Complaint, I request that the Court issue the following orders:

A. Describe the orders you want the Court to make:

Wherefore, the Plaintiff respectfully requests the Honorable Court find that as a direct and proximate cause of the Defendants' negligence and the negligence of its agents and employees, she was caused to suffer serious and permanent personal and other economic and otherwise compensable injuries and is therefore entitled to compensatory and all other applicable damages at law; and for any other relief this Honorable Court deems necessary, proper, and just.

B. All other relief the Court deems fair and just.

**Gail Garda by and through**

Name of Filer

**Shawn R. Crapo, Esquire**      **272502**

Law Firm, if applicable      Bar ID # of attorney

**Crapo Law Offices, PLLC**

Address

**Rye Beach**      **NH**      **03871**

City      State      Zip code

**/s/ Shawn R. Crapo**

Signature of Filer

Date

**(603) 964-0003**

Telephone

**Shawn@CrapoLaw.com**

E-mail